

APPENDIX B:
End-Payor Drug Cases Seeking Damages and Their Standing Analyses¹

Case Name	Any Type of “Standing” Analysis? ²	Analysis of Whether There is an Available <i>Illinois Brick</i> Repealer? ³	Analysis of Whether AGC Should Further Limit Potential Claims?
<i>In re Zetia (Ezetimibe) Antitrust Litig.</i> , No. 2:18-md-2836, 2019 WL 1397228, at *23-24, 26-27 (E.D. Va. Feb. 6, 2019), <i>report and rec. adopted as modified</i> , 400 F. Supp. 3d 418, 433-35 (E.D. Va. 2019).	Yes (Deferred Article III standing determination to class certification)	Yes	No
<i>Blue Cross & Blue Shield of Vt. v. Teva Pharm. Indus., Ltd.</i> , No. 5:22-cv-159, 2024 WL 323775, at *30-34 (D. Vt. Jan. 22, 2024).	Yes	Yes	No

¹ This chart considers a representative sample of end payor generic / biosimilar drug delay cases seeking damages and does not purport to address every such case. Because J&J limited its briefing to plaintiffs’ state antitrust claims, this chart is similarly limited to claims under state antitrust statutes.

² This column reflects whether a court analyzed standing pursuant to one of the following: (1) Article III standing; (2) availability of an *Illinois Brick* repealer; and/or (3) an analysis under the AGC test.

³ Courts analyzing end-payor claims under state antitrust statutes generally divide their analyses into two parts: (1) an analysis of whether the relevant state has an *Illinois Brick*-repealer statute such that an end payor may recover under that state’s antitrust statute; and (2) an analysis of whether the end payor has met other elements of each antitrust statute (*e.g.*, notice requirements or statute of limitations). Because Appendix B collects cases analyzing end-payor standing under state antitrust statutes, this column reflects whether the court conducted the first analysis, not the second.

Case Name	Any Type of “Standing” Analysis? ²	Analysis of Whether There is an Available <i>Illinois Brick</i> Repealer? ³	Analysis of Whether AGC Should Further Limit Potential Claims?
<i>In re Seroquel XR (Extended Release Quetiapine Fumarate) Antitrust Litig.</i> , No. 20-1076-CFC, 2022 WL 2438934, at *15-20 (D. Del. July 5, 2022).	Yes (Deferred Article III standing determination to class certification)	Yes	No
<i>In re Sensipar (Cinacalcet Hydrochloride Tablets) Antitrust Litig.</i> , MDL No. 2895, 2022 WL 736250, at *16-24 (D. Del. Mar. 3, 2022).	Yes	No ⁴	No
<i>In re Xyrem (Sodium Oxybate) Antitrust Litig.</i> , 555 F. Supp. 3d 829, 883-88 (N.D. Cal. 2021).	Yes	Yes	No
<i>In re Loestrin 24 Fe Antitrust Litig.</i> , 410 F. Supp. 3d 352, 367-71 (D.R.I. 2019).	Yes	Yes	No
<i>In re Ranbaxy Generic Drug App. Antitrust Litig.</i> , No. 19-md-02878-NMG, 2019 WL 6341298, at *6 (D. Mass. Nov. 27, 2019).	Yes	Yes	No

⁴ The *Sensipar* court analyzed whether the end payors met the citizen and/or resident requirement under the Utah antitrust statute. See *Sensipar*, 2022 WL 736250, at *21. While some courts have analyzed that issue alongside antitrust standing under other state antitrust statutes, see, e.g., *In re Effexor Antitrust Litig.*, 337 F. Supp. 3d 435, 460-61 (D.N.J. 2018), the court here did not. As such, we do not classify it as a standing analysis for purposes of this appendix.

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<i>In re Generic Pharms. Pricing Antitrust Litig.</i> , 368 F. Supp. 3d 814, 827-834 (E.D. Pa. 2019).	Yes (Deferred Article III standing determination to class certification)	Yes	No
<i>In re Lipitor Antitrust Litig.</i> , 336 F. Supp. 3d 395, 417-19 (D.N.J. 2018).	Yes	Yes	No
<i>In re Effexor Antitrust Litig.</i> , 337 F. Supp. 3d 435, 458-61 (D.N.J. 2018).	Yes	Yes	No
<i>Sergeants Benevolent Ass’n Health & Welfare Fund v. Actavis, PLC</i> , No. 15 Civ. 6549, 2018 WL 7197233, at *20-24 (S.D.N.Y. Dec. 26, 2018).	Yes	Yes	No
<i>In re Remicade Antitrust Litig.</i> , 345 F. Supp. 3d 566, 584-85 (E.D. Pa. 2018).	Yes	No	No
<i>In re Propranolol Antitrust Litig.</i> , 249 F. Supp. 3d 712, 724-28 (S.D.N.Y. 2017).	Yes	No	Yes
<i>In re Opana ER Antitrust Litig.</i> , 162 F. Supp. 3d 704, 721-24 (N.D. Ill. 2016).	Yes	Yes	No
<i>In re Aggrenox Antitrust Litig.</i> , 94 F. Supp. 3d 224, 249-53 (D. Conn. 2015).	Yes	Yes	No

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<i>In re Solodyn (Minocycline Hydrochloride) Antitrust Litig.</i> , No. CV 14–MD–02503–DJC, 2015 WL 5458570, at *14-15 (D. Mass. Sept. 16, 2015).	Yes	Yes	No
<i>In re Suboxone (Buprenorphine Hydrochloride & Naloxone) Antitrust Litig.</i> , 64 F. Supp. 3d 665, 691-94, 696-98 (E.D. Pa. 2014).	Yes	No	Yes
<i>United Food & Com. Workers Loc. 1776 & Participating Emps. Health & Welfare Fund v. Teikoku Pharma USA, Inc.</i> , 74 F. Supp. 3d 1052, 1078-81, 1084-88 (N.D. Cal. 2014); <i>In re Lidoderm Antitrust Litig.</i> , 103 F. Supp. 3d 1155 (N.D. Cal. 2015) (on motion to dismiss second amended complaint, defendants did not challenge end payors’ antitrust standing).	Yes	Yes	No
<i>In re Niaspan Antitrust Litig.</i> , 42 F. Supp. 3d 735, 757-60 (E.D. Pa. 2014).	Yes	Yes	No
<i>In re Nexium Antitrust Litig.</i> , 968 F. Supp. 2d 367, 403-07 (D. Mass. 2013).	Yes	Yes	No
<i>In re Flonase Antitrust Litig.</i> , 692 F. Supp. 2d 524, 532-34, 537-46 (E.D. Pa. 2010).	Yes	No	No

Case Name	Any Type of “Standing” Analysis? ²	Analysis of Whether There is an Available <i>Illinois Brick</i> Repealer? ³	Analysis of Whether AGC Should Further Limit Potential Claims?
<i>In re K-Dur Antitrust Litig.</i> , No. 01-1652 (JAG), 2007 WL 5297755, at *11, 17-19 (D.N.J. Mar. 1, 2007).	Yes	No	The full extent of <i>K-Dur</i> ’s analysis reads: AGC “stands for the proposition that not every party connected with a violation of federal antitrust laws has standing to bring an antitrust claim. Indeed, as the Court noted in <i>AGC</i> , ‘[t]he existence of an identifiable class of persons whose self-interest would normally motivate them to vindicate the public interest in antitrust enforcement diminishes the justification for allowing a more remote party.’” <i>Id.</i> at *17 (quoting <i>Assoc. Gen. Contractors of Cal., Inc. v. Cal. State Council</i> , 459 U.S. 519, 542 (1983))
<i>Ryan-House v. Glaxosmithkline, PLC</i> , No. 2:02CV442, 2004 WL 7390565 (E.D. Va. Mar. 11, 2004).	No	No	No
<i>In re Lorazepam & Clorazepate Antitrust Litig.</i> , 295 F. Supp. 2d 30 (D.D.C. 2003).	Yes	Yes	Yes (applies AGC factors and finds that end payors have met them)